



## *Frequently Asked Questions About*

### **Proposed Critical Habitat** **for the Saint Mary-Belly River Population of Bull Trout**

**Q – What action is the Fish and Wildlife Service taking?**

A – The U. S. Fish and Wildlife Service is proposing to designate 88 miles of streams and 6,295 acres of lakes in the Saint Mary and Belly River drainages of northwest Montana as critical habitat for bull trout (*Salvelinus confluentus*), a threatened species protected under the Federal Endangered Species Act.

A final decision regarding the designation of critical habitat will be made in June 2005, following the completion of an economic analysis and an extensive public comment period.

**Q – Why is the Service proposing critical habitat?**

A – In a January 2002 court settlement, the Service agreed to designate critical habitat for all populations of bull trout in the lower 48 states by September 2004. To facilitate this complex process, the Service decided to approach the designation of critical habitat by population segments, beginning with a proposal in November 2002 for the Columbia River Basin and Klamath River Basin populations and continuing with a proposal in 2004 for the Coastal-Puget Sound, Jarbidge River, and Saint Mary-Belly River populations. The settlement was revised in 2003 to allow the Service until June 2005 to complete its designations.

**Q – What is critical habitat?**

A – Critical habitat designates areas that contain habitat essential for the conservation of a threatened or endangered species and which may require special management considerations. A designation does not set up a preserve or refuge and has no specific regulatory impact on landowners taking actions on their land that do not involve federal agency funds, authorization or permits. However, landowners must consult with the Service before taking actions on their property which could harm or kill protected species or destroy their habitat, regardless of whether critical habitat has been designated.

Critical habitat is determined after taking into consideration the economic impact it could cause, as well as any other relevant impacts. The Secretary may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

**Q – What is being proposed as critical habitat for bull trout?**

A – The proposed critical habitat designation includes 88 miles of streams and 6,295 acres of lakes in the Saint Mary and Belly River drainages of northwest Montana. Only the waterways are included in the proposed designations; adjacent lands are not included.

**Q – What is the land ownership adjacent to the proposed critical habitat designations in the aquatic environment?**

A – The breakdown of adjacent land ownership for the Saint Mary-Belly River population is: 45 percent Federal lands; 45 percent Tribal lands; 0 percent state lands; and 10 percent private lands.

**Q – How did the Service determine what should be proposed as critical habitat for bull trout?**

A – We used the best scientific data available to determine areas that contain the physical and biological features essential for the conservation of the bull trout. In proposing critical habitat, we reviewed the overall approaches to the conservation of the species undertaken by local, State and Federal agencies, Tribal governments, and private individuals and organizations since the species was listed in 1998. We relied heavily on information developed by the bull trout Recovery Unit Teams, which were composed of Federal, State, Tribal, County and City biologists and ecologists. We reviewed available information concerning bull trout habitat use and preferences, habitat conditions, threats, limiting factors, population demographics, and the known location, distribution, and abundance of bull trout.

Proposed critical habitat for bull trout was delineated based on multiple information sources available during the preparation of this rule, including State databases of bull trout distribution, information from recovery unit team members, and recent research and surveys.

We are only proposing to designate areas that currently have at least one primary constituent element essential to the conservation of the species and for areas that require special management. Primary constituent elements are physical and biological features that are essential to the conservation of the species. These include, but are not limited to: space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species. All areas proposed as critical habitat for bull trout are within the historic geographic range of the species.

We are not proposing critical habitat for all areas currently occupied, including some small scattered areas, because we do not believe that these areas are essential to the conservation of the species based on current scientific and commercial information.

**Q -- Are there areas being proposed as critical habitat where bull trout are not currently known to occur?**

**A -- No.** All the streams proposed are currently considered regularly occupied by bull trout.

**Q – How would bull trout benefit from having critical habitat designated?**

**A –** Critical habitat receives protection under Section 7 of the Endangered Species Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Aside from the added protection that may be provided under Section 7, the Act does not provide other forms of protection to lands or waters designated as critical habitat. Consultation under Section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus such as funding or permits.

**Q – Who would be affected by a critical habitat designation?**

**A –** Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize that might affect critical habitat. It is important to note that in most cases, this is already occurring under the section 7 interagency consultation requirements of the Endangered Species Act. Non-federal entities, including private landowners, that may also be affected could include, for example, those seeking a U.S. Army Corps of Engineers 404 permit under the Clean Water Act to build an in-water structure, those seeking federal approval to discharge effluent into the aquatic environment, or those seeking federal funding to implement land management practices where such actions affect the aquatic environment that has been designated as critical habitat. But again, in most cases where this link exists between activities on private lands and Federal funding, permitting, or authorization, consultation under section 7 of the Endangered Species Act is already occurring.

**Q – Who would not be affected?**

**A –** A critical habitat designation does not affect non-Federal entities when there is not a Federal nexus. For example, swimming, boating, fishing, farming, ranching, or any of a range of activities normally conducted by a landowner or operator of a business not involving Federal funding, permitting, or authorization in order to occur would not be affected.

**Q – What effect would a critical habitat designation for bull trout have on National Fire**

### **Plan interagency coordination?**

**A** – It would prompt Federal agencies to consider the effects of proposed actions on critical habitat. Each Federal agency must confer with the Fish and Wildlife Service on any action that may affect listed species or designated critical habitat. This includes any actions proposed under the National Fire Plan. Consultation can take the form of informal discussions during which the Fish and Wildlife Service may suggest modifications to the action to avoid or minimize impacts to critical habitat. If the Federal agency determines that the proposed action is not likely to adversely affect designated critical habitat and the Fish and Wildlife Service concurs with this determination, consultation can be concluded informally. If the proposed action is likely to adversely affect critical habitat, formal consultation is required.

### **Q – Would a critical habitat designation have economic impacts?**

**A** – An economic analysis of the proposed critical habitat designation will be completed and subject to public review prior to a final decision. This analysis will be conducted by **Northwest Economics Associates**, an independent, professional economics firm based in Vancouver, Washington. The Secretary of Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the conservation benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

### **Q – Would a critical habitat designation affect swimming, boating and fishing?**

**A** – In most cases, a critical habitat designation will not impact swimming, boating or fishing. In rare instances, where Federal funding, authorization or permits are required – such as construction of a new boating facility – consultation with the Fish and Wildlife Service may be needed. Most of these types of projects already are being reviewed under the section 7 interagency consultation requirements of the Endangered Species Act.

### **Q – Would a critical habitat designation affect water rights or usage?**

**A** – It will not affect water rights. In cases where irrigation is provided through a Federal agency, such as the Bureau of Reclamation, that agency would have to consult with the Fish and Wildlife Service to determine whether water withdrawals would adversely impact bull trout critical habitat. However, it is important to note that most of these types of projects already are being reviewed under the section 7 interagency consultation requirements of the Endangered Species Act.

### **Q – Would a critical habitat designation impact the use of land adjacent to the designated waterways?**

**A** – Possibly. If the adjacent land is Federal land or the land is private but has a Federal nexus

such as funding or permits, the proposed land use activity would be assessed for its potential impacts on bull trout critical habitat in the aquatic environment through consultation with the Federal agency. Most of these types of projects already are being reviewed under the section 7 interagency consultation requirements of the Endangered Species Act.

**Q – How long does a critical habitat designation remain in effect?**

A – A critical habitat designation remains in effect until the species is considered to be recovered, and is de-listed.

**Q – Will I have an opportunity to comment on the proposed critical habitat designations?**

A – The 60-day comment period, opens June 25, 2004 and closes August 25, 2004. Written comments may be sent to John Young, Bull Trout Coordinator, U.S. Fish and Wildlife Service, 911 NE 11<sup>th</sup> Street, Portland, OR 97232 Or sent via email to [fw1srbocomment@fws.gov](mailto:fw1srbocomment@fws.gov)